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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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03/18/2004

Lehmann K. Li

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5403

52196

7590

04/29/2009

MEDTRONIC

Attn: Noreen Johnson - IP Legal Department

2600 Sofamor Danek Drive

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

04/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-13, 18, and 21-27 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

2. Newly submitted claim 64 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 64 is a method claim. The method of using the device is distinct from the device because the device need not be used with a body. The device can be used to anchor a line in any type of bore

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 64 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 56 is rejected under 35 U.S.C. 102(b) as being anticipated by Pierce 5405359.

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5. Pierce teaches suture anchoring system, comprising: a suture; at least two anchor member interconnected to form an anchor assembly with the suture extending therefrom, the anchor assembly having an insertion configuration sized for delivery through an aperture in bodily tissue and being transitionable to an expanded configuration sized to prevent passage of the anchor assembly back through the aperture; the suture forming at least one loop (Pierces teaches a knot; col. 2, lines 52-55, tied at the end of an anchor. To form a knot, a free end of suture is passed through a loop and tightened); and an actuating member extending through the at least one loop (The suture is used as an actuating member, and the free end of the suture is passed through a loop to form a knot).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-13, 18, 21-27, 60, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce 5405359.

8. Pierce a discloses the claimed invention except for at least three anchor members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least three anchor member, since it has been held that mere duplication of the essential working parts of a device involved only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

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9. It should also be noted that Pierce fails to teach a second loop. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form a second knot (double knot) comprising a second loop to make a more secure anchor.

10. As to claims 2, 4, 8, 10, 11-13, 23, 24, and 26, Pierce fails to teach a triangular-shaped arrangement or a parallel relationship of the at least three anchor members. However, it would have been obvious to one having ordinary skill in the art to use a triangular-shaped arrangement or a parallel relationship because the shape of the arrangement is a mere design choice and that any shape would perform equally well. Furthermore, the applicant has not disclosed that the specific type of shape arrangement solves any stated problems or is for any particular purpose and it appears that the invention would perform equally well with the shape arrangement taught by Pierce.

11. As to claim 61, Pierce teaches the claimed invention except for a second actuating member. It should have been obvious to one having ordinary skill in the art at the time the invention was made to use a second actuation member, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

FIG. 29

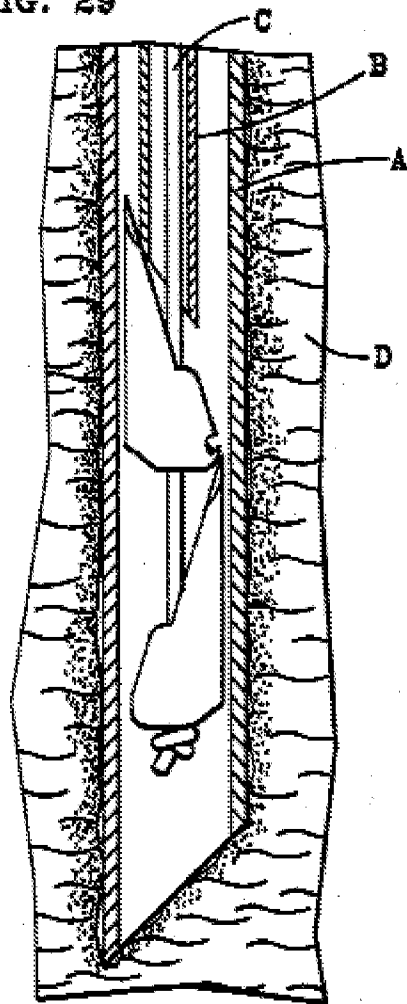
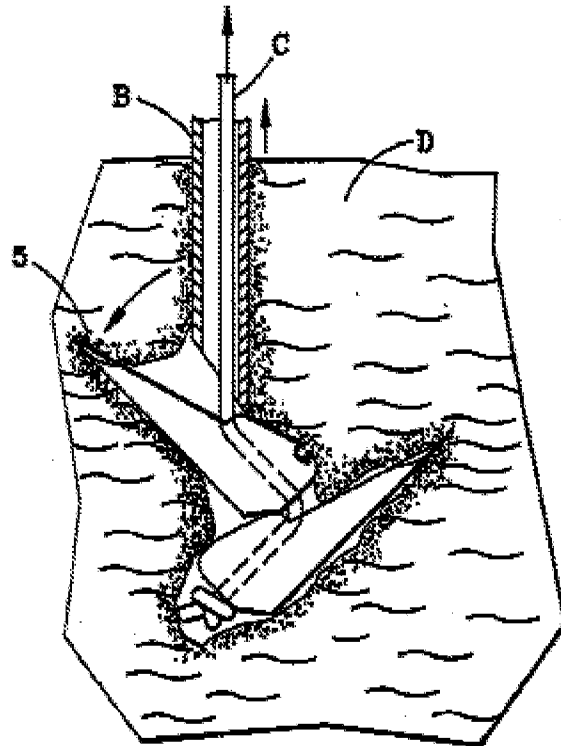


FIG. 33



Allowable Subject Matter

12. Claims 14-17, 19, 28, 29, 35-39, 62, and 63 are allowable over the prior art of record.

13. Claims 57-59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3734